

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

## MEMORANDUM OPINION AND ORDER

Plaintiffs filed this action alleging various violations of the Lanham Act, violation of the Oklahoma Deceptive Trade Practices Act, and Oklahoma common law. In their Complaint, Plaintiffs seek relief in the form of monetary damages, an injunction, surrender of the violative goods, punitive damages, attorneys' fees, and costs. The case is before the Court on Plaintiffs' motion seeking entry of a default judgment against Defendant Edwards. Plaintiffs assert that despite proper service, Defendant Edwards has failed to answer or otherwise appear in the action.

Review of the Court file reflects that Defendant Edwards was properly served on April 21, 2008. Since that time, the Court file reflects Defendant Edwards has not answered or otherwise responded. Accordingly, Plaintiffs are entitled to default judgment against

Defendant Edwards under the terms of Fed. R. Civ. P. 55(b). Plaintiffs' motion fails to specify the nature of the relief sought against Defendant Edwards. Accordingly, Plaintiffs shall file an appropriate pleading indicating the relief sought, so that the matter may be set for hearing, if appropriate.

The Court notes that despite having summons issued for Defendant Dooley, Plaintiffs have not indicated that Defendant has been served. Additionally, there is no record that Plaintiffs have obtained summons for service on Defendant White. Pursuant to Fed. R. Civ. P. 4(m), service must be accomplished within 120 days after the Complaint is filed. Plaintiffs have failed to meet that deadline and the case against Defendants Dooley and White is subject to dismissal. Accordingly, Plaintiffs shall show cause within ten days as to why Defendants Dooley and White should not be dismissed as Defendants.

For the reasons set forth herein, Plaintiffs' Motion for Default Judgment (Dkt. No. 9) is GRANTED. Plaintiffs shall file a pleading outlining the relief they request and shall make the Fed. R. Civ. P. 4(m) show cause filing required herein within ten days of the date of this Order.

IT IS SO ORDERED this 28th day of August, 2008.



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ROBIN J. CAUTHRON  
United States District Judge